

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Dwayne Curtis Deleston,

Civil No. 12-3006 (RHK/SER)

Petitioner,

ORDER

v.

Scott P. Fisher,

Respondent.

The above-captioned case comes before the undersigned on the January 4, 2013, Report and Recommendation of United States Magistrate Judge Steven E. Rau, to which timely Objections were filed. In addition, Petitioner has filed a Motion for an Order to Release Prisoner, which Motion will be **DENIED**.

Based upon all the files, records, and proceedings herein, and upon the undersigned's de novo review of the Report and Recommendation, **IT IS ORDERED**:

1. Petitioner's Objections entitled "Petitioner's Reply to the Magistrate's Report and Recommendation" (Doc. No. 12) are **OVERRULED**:

2. The Report and Recommendation (Doc. No. 8) is **ADOPTED**;

3. Petitioner's application to proceed *in forma pauperis* (Doc. No. 2) is **DENIED**;

4. Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241 (Doc. No. 1) is summarily **DISMISSED WITH PREJUDICE**;

5. Petitioner's Motion for an Order to Release Prisoner (Doc. No. 4) is **DENIED**; and

6. The Clerk of Court is **DIRECTED** to not file any new pleading submitted by Petitioner, unless the pleading has been signed by an attorney, or pre-approved for filing by a Judge of the District Court.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 5, 2013

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge